

REMARKS

Claims 1-20 remain pending in the present application. No new matter has been added.

Claim Rejections - 35 U.S.C. §103(a)

The present office action states that Claims 1-3, 5, 7-9, 11, 14-16 and 18 are rejected under 35 U.S.C. § 103(a) as rendered obvious by Casper Lassenius, Maarit Nissinen, Kristian Rautiainen And Reijo Sulonen's "The Interactive Goal Panel: A Methodology For Aligning R&D Activities With Corporate Strategy", published in October 1998 (hereinafter Lassenius). Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1-3, 5, 7-9, 11, 14-16 and 18 are not taught or rendered obvious by Lassenius for the following rationale.

Applicants respectfully submit that Independent Claims 1, 7 and 14 include the feature "gathering data associated with an organization and customers of said organization" (emphasis added). Support for the Claimed feature can be found throughout the Specification including page 22 lines 12-14 and page 23 lines 20-page 24 line 8 (addressing the data associated with customers of the organization) and page 22 lines 16-18 and page 24 lines 10-20 (addressing the data associated with organization).

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (MPEP 2143.03).

Applicants have reviewed Lassenius and agree with the Examiner assertion that Lassenius does not explicitly collect customer data.

Moreover, Applicants have reviewed Lassenius and respectfully submit that Lassenius fails to teach the feature of gathering data associated with an organization and also gathering data associated with customers of the organization. That is, Applicants do not understand Lassenius to teach both the gathering data associated with an organization and customers of the organization (emphasis added).

For this reason, Applicants respectfully state that Independent Claims 1, 7 and 14 are not taught or rendered obvious over Lassenius and as such, Claims 1, 7 and 14 are allowable as they overcome the rejection under 35 U.S.C. § 103(a).

Regarding page 5 of the present Office Action, Applicants respectfully submit that the Examiner has provided inadequate support of a finding of Official Notice. Examiner takes Official Notice that it is old and well known in the art to collect customer data. Applicants respectfully submit that the claimed embodiments of the combination of gathering data associated with an organization and customers of said organization is not considered to be common knowledge or well-known in the art of total customer experience action planning process to provide an improved customer experience, as asserted by the Examiner (emphasis added).

The “assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support” (MPEP 2144.03(A); *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001)). In particular, “[i]f such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge” (MPEP 2144.03(B); see *In re Soli*, 317 F.2d 941, 946, 37 USPQ 797, 801 (CCPA 1963); see also *In re Chevenard*, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943)).

Applicants respectfully submit that the basis for Official Notice as relied on by the Examiner is not set forth explicitly, as required. Applicants respectfully submit that the Examiner has not stated why the teachings of collecting customer data in conjunction with gathering data associated with an organization are common knowledge. Furthermore, the Examiner has not stated how such teachings relate to the claims. Applicants respectfully assert that the Examiner has taken Official Notice without providing a clear and unmistakable technical line of reasoning, as required.

Applicants respectfully assert that the use of the combination of gathering data associated with an organization and customers of said organization as claimed is not old and well known in the art (emphasis added). "It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based" (emphasis added; MPEP 2144.03(E); See *In re Zurko*, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001); *In re Ahlert*, 424 F.2d 1088, 1092, 165 USPQ 418, 421 (CCPA 1970)).

Accordingly, Applicants respectfully request that the Examiner provide adequate evidence in the form of an affidavit in support of the finding of Official Notice, in accordance with 37 CFR § 1.104(d)(2).

For this additional reason, Applicants respectfully state that Independent Claims 1, 7 and 14 are not taught or rendered obvious over Lassenius and as such, Claims 1, 7 and 14 are allowable as they overcome the rejection under 35 U.S.C. § 103(a).

With respect to Claims 2-3 and 5, Applicants respectfully state that Claims 2-3 and 5 depend from the allowable Independent Claim 1 and recite further features of the present claimed invention. With respect to Claims 8-9 and 11,

Applicants respectfully point out that Claims 8-9 and 11 depend from the allowable Independent Claim 7 and recite further features of the present claimed invention. With respect to Claims 15-16 and 18, Applicants respectfully point out that Claims 15-16 and 18 depend from the allowable Independent Claim 14 and recite further features of the present claimed invention. Therefore, Applicants respectfully state that Claims 1-3, 5, 7-9, 11, 14-16 and 18 are allowable as pending from allowable base Claims.

Claims 3, 9 and 16

With respect to Claim 3, Applicants respectfully state that Claim 3 depend from the allowable Independent Claim 1 and recites further features of the present claimed invention.

With respect to Claim 9, Applicants respectfully state that Claim 9 depend from the allowable Independent Claim 7 and recites further features of the present claimed invention.

With respect to Claim 16, Applicants respectfully state that Claim 16 depend from the allowable Independent Claim 14 and recites further features of the present claimed invention.

Claims 4, 6, 10, 12-13, 17 and 19-20

In the Office Action, the Examiner rejected Claims 4, 6, 10, 12-13, 17 and 19-20 under 35 USC 103(a) as being unpatentable over Lassenius as applied to Claim 1 (and 7 and 14), and further in view of Gary Meyer's discussion of eWorkbench in "eWorkbench: Real-time Tracking Of Synchronized Goals", published in the April 2001 issue of HRMagazine (hereinafter Meyer). Applicants have reviewed the cited reference and respectfully submit that the present invention is not rendered obvious over Lassenius in view of Meyer for the following rationale.

With respect to Claims 4 and 6, Applicants respectfully state that Claims 4 and 6 depend from the allowable Independent Claim 1 and recite further features of the present claimed invention.

With respect to Claims 10 and 12-13, Applicants respectfully state that Claims 10 and 12-13 depend from the allowable Independent Claim 7 and recites further features of the present claimed invention.

With respect to Claims 17 and 19-20, Applicants respectfully state that Claims 17 and 19-20 depend from the allowable Independent Claim 14 and recites further features of the present claimed invention.

Therefore, Applicants respectfully state that Claims 4, 6, 10, 12-13, 17 and 19-20 overcome the rejection under 35 U.S.C. §103(a) as being unpatentable over Lassenius in view of Meyer. As such, Applicants respectfully submit that Claims 4, 6, 10, 12-13, 17 and 19-20 are allowable as pending from allowable base Claims and reciting additional features.


CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-20 overcome the rejections of record, and therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,
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